

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

CRIMINAL NO. 15-20378

HON. BERNARD A. FRIEDMAN,

**STEVEN MINELLA,
Defendant.**

/

**SENTENCING MEMORANDUM OF THE UNITED STATES
AS TO DEFENDANT STEVEN MINELLA**

The United States of America, by and through its attorneys, Matthew Schneider, United States Attorney for the Eastern District of Michigan, and David A. Gardey and Dawn N. Ison, Assistant United States Attorneys, respectfully submit this Sentencing Memorandum regarding Steven Minella.

I. INTRODUCTION

Steven Minella had been a member of the International Union of Operating Engineers Local 324 for nine years before he was appointed a business agent for Local 324 in 2007. By 2008, he had quickly gained the trust of his union brethren; they elected him their recording-corresponding secretary. And by 2009, Minella was Local 324's President. However, during 2008 through 2012, while serving in those various capacities, Minella would breach the trust afforded him by the

18,000 Local 324 union members and become beholden to Hamilton, carrying out and enforcing Hamilton's extortionate scheme for Hamilton's personal gain, all to the detriment of the union and its members who had entrusted Minella (and Hamilton) to put their best interests first. In the end, Minella would betray his union brothers even more by helping Hamilton conceal his crimes.

II. ARGUMENT

A. The Nature and Circumstances of Hart's Crime (18 U.S.C. § 3553(a)(1))

1. Minella's Duty to Serve the Members of Local 324

After having worked in the field as a member of Local 324 for approximately seven years, Minella became a business agent for Local 324, in 2007. Although appointed by Hamilton to this position, Local 324 employs the business manager and the staff of business agents and support personnel to run the affairs of the union. As a business agent, Minella shared Hamilton's obligation to the Local 324 membership and by extension was "directly responsible to the membership" of Local 324, and "authorized and empowered to direct and conduct the business affairs of the Local Union, at all times representing the *entire* membership." Art. XXIV, Section 1 Bylaws of International Union of Operating Engineers Local Union 324 (emphasis added).

Minella would later serve in the next highest office after the business manager. In 2009, Minella became the union's President. As such, Minella owed

an even greater duty to Local 324 members, but over the course of Minella's service to the union, between 2008 and 2012, Minella would forget for whom he served. Instead of fulfilling his duty as an elected officer and representative of the members of Local 324, Minella would betray the trust of the Local 324 members and spiral into the web of extortion perpetrated by John Hamilton on union business agents and union staff.

2. Minella had Actual Knowledge of Hamilton's Extortionate Scheme

Between 2008 and 2012, Hamilton forced business agents to pay \$100 per week into the Hamilton Slate Fund, purportedly for the purpose of financing the campaign for Hamilton and the slate of candidates running with him during union elections. Business managers who served before Hamilton also maintained similar funds for this purpose. But, by all accounts, the campaign fund maintained by the prior business manager, was voluntary, and the business agents paid a mere \$25 per week into it. When Hamilton became business manager, he steadily increased the amount of the contributions until by 2006, union business agents were paying \$100 per week or \$5,200 yearly into Hamilton's slate fund. The compulsory nature of the contributions and the fact that Hamilton used significant portions of the slate funds for his own personal enrichment, not only made the contributions into the slate fund different from those in the past, but also made them unlawful. Minella and all the business agents knew that if they refused to pay into the fund

Hamilton would fire them, leaving them without the ability to support themselves and their families. Minella also knew that Hamilton's conduct of forcing union agents to contribute to the slate fund violated the law. With full knowledge of the unlawful nature of Hamilton's actions, Minella oftentimes was the conduit through which Hamilton exerted his fear and intimidation to force business agents to pay into the slate fund. By the end of the conspiracy, Minella would have helped Hamilton coerce and intimidate union business agents into each paying tens of thousands of dollars of their hard earned income, salaries supported with union funds, into the fund from which both Hamilton and Minella inappropriately and unlawfully personally benefitted.

3. Minella Furthered Hamilton's Extortionate Scheme

Minella assisted Hamilton in making Hamilton's unlawful intentions and demands clear to the union business agents. Minella became known by union members as one of Hamilton's "right hand men;" "henchmen;" "lackeys;" and, "part of Hamilton's inner circle," along with union Financial Secretary and co-defendant David Hart. In several ways, Minella conspired with Hamilton to further Hamilton's extortionate scheme and further the abuse of power Hamilton wielded on union business agents and other union personnel.

Minella knew first hand that business agents had no choice but to pay into the fund or lose their jobs. He himself made involuntary payments into the same

fund in order to maintain his employment and he was fully aware that Hamilton's demands violated Michigan law. The Michigan Payment of Wages and Fringe Benefits Act, Section 408.477(1) prohibits an employer from deducting "from the wages of an employee, directly or indirectly, any amount including an employee contribution to a separate segregated fund . . . without the full, free and written consent of the employee, obtained without intimidation or fear of discharge for refusal to permit the deduction." Michigan law also prohibits an "employer, agent or representative of an employer, or other person having authority from the employer to hire, employ, or direct the services of other persons in employment of the employer shall not demand or receive, directly or indirectly from an employee, a fee, gift, tip, gratuity, or other remuneration or consideration, as a condition of employment or continuation of employment." M.C.L.A. § 408.478.

However, in order to conceal his unlawful conduct, Hamilton devised an artifice to circumvent Michigan law—The Wage Authorization form that union business agents were forced to sign and falsely claim that their \$5,200 yearly payments into the slate fund were voluntary. Knowing that union business agents' contributions were, in fact, involuntary, Minella was fully aware that Hamilton was perpetrating a fraud by requiring union business agents to sign this authorization form in order to both obtain a job as a business agent and to keep it and that this forceful conduct amounted to extortion.

Minella also participated in one of Hamilton's most aggressive demonstrations of instilling fear and intimidation in the union business agents who paid into the fund—the firing of Kenneth Dombrow, the union's auditor, after he complained to some secretaries about making the slate fund payments. In September 2010, Dombrow was serving as the elected auditor of Local 324, and he was employed as a business agent. Dombrow had complained to three secretaries about being forced to make the weekly \$100 payments into the slate fund. One of those secretaries told Hart. After hearing this, Hart confirmed Dombrow's statements with the other secretaries and reported Dombrow's complaints to Hamilton. Predictably, and as a result of Hart's action, when Hamilton received word that Dombrow had complained about the slate fund payments, Hamilton fired Dombrow. At Hamilton's behest, Minella contacted Dombrow and ordered him to report to Hamilton's office so that Hamilton could fire Dombrow. Minella enforced Hamilton's directive by demanding that Dombrow leave a funeral that Minella knew Dombrow was attending and report to the union office immediately. Hamilton apparently wanted to ensure that his firing of Dombrow from the union sent a sufficiently strong, clear message to union business agents. Hamilton bolstered his position by attempting to blackball Dombrow from future employment. Once Hamilton learned that Dombrow had secured subsequent employment with a Local 324 contractor, Minella would again follow Hamilton's

directive to use any and all efforts to get Dombrow fired. Minella contacted that contractor inquiring about whether Dombrow had the proper training for the job, and instructed the contractor to terminate Dombrow if he didn't. Minella did this all in an effort to carry out Hamilton's message and while knowing that Hamilton was interfering with Dombrow's ability to support himself and his family, and that Hamilton's action was done in retaliation for Dombrow's complaints about contributing to the slate fund. Minella's actions helped Hamilton further solidify Hamilton's message to union business agents that failure to contribute to the fund, or voicing any opposition about contributing into the fund, would cost you your job at the union and elsewhere. And those efforts worked because business agents who heard about the Hamilton's efforts to have Dombrow fired from his new employment, feared similar retaliation if they objected to the slate fund payments. Rather than have Hamilton do his own dirty work, Minella demonstrated his allegiance to Hamilton and Hamilton's message over what should have been his faithfulness to the members of Local 324 who he had been elected to serve.

4. Minella Personally Benefitted from Hamilton's Extortionate Scheme

In addition to aiding Hamilton's efforts to exert fear and intimidation to force union business agents to pay into the slate fund, Minella also personally benefitted from Hamilton's misuse of union funds. Minella knew that Hamilton used the slate fund money as his own because Minella himself enjoyed the

majority of the expensive meals and liquor that Hamilton used slated funds to pay for as part of what became known as the “Lunch Program.” Minella along with Hamilton used tens of thousands of dollars in union funds to pay for meals and liquor on a weekly basis at high-end restaurants in southeast Michigan, during which no union business was conducted or even discussed. Minella was also regularly with Hamilton at the various sports events and at the Detroit Athletic Club where exorbitant expenses for food, liquor and other expenses were improperly charged to the slate fund and union accounts. Minella also supported Hamilton’s improper use of the slate fund monies to provide a \$5,000 wedding gift for Hamilton’s daughter and for drop phones that Hamilton used to communicate with his paramours. And Minella’s very own family benefitted from the improper use of slate fund monies even more directly. Approximately, \$6,000 of funds from the slate fund were improperly used towards Minella’s brother-in-law’s funeral. Although altruistic, this was not the purpose for which the slate funds were supposed to be used; \$6,000 is an excessive amount of funds to be used for this improper purpose; and, no other union business agents who contributed to the fund enjoyed this privileged use of slate fund money.

Minella’s facilitation of Hamilton’s abuse of power didn’t end with Hamilton’s exploitation of slate funds. As noted above, union funds were also misused to pay for the Lunch Program and other extravagances. In addition, when

Hamilton wanted fancy custom rims and tires for his luxury Cadillac DTS provided to Hamilton by Local 324, Minella, as president approved the nearly \$3,000 expense, knowing that there was no union benefit served by the purchase and that it was an improper use of union funds. As the next highest ranking officer under the business manager, Minella had a duty to preserve the union's assets, and he neglected his duty to the Local 324 membership by allowing this inappropriate expenditure for Hamilton's sole personal enjoyment.

In the end, once Hamilton's dictatorial reign ended after Hamilton lost the election in 2012, Minella would support Hamilton's final criminal scheme. As Hamilton continued to use the slate fund for his personal gain in the face of defeat, Minella, too, would join him in the abuse, despite the fact that at the time Minella was still the President of Local 324.

On a Saturday evening, in August 2012, Hamilton, Minella and Hart met at Local 324's headquarters. Hart contacted Chief Financial Officer, Michael Pankiewicz to locate the slate fund checkbook and later removed it from the CFO's cabinet in his office. Under Hamilton's direction, Minella (and Hart) wrote a series of seventeen checks from the slate fund checkbook in order to empty out the Hamilton Slate Fund bank account of the \$145,000 remaining. PSR ¶ 11. Minella received four checks totaling \$37,000.000. *Id.* Even after Hamilton had been stripped of his power, Minella continued to betray the trust of his union brethren

and assist Hamilton in depriving union business agents' of their rightful claim to the funds remaining in the slate fund following Hamilton's defeat.

Over the course of the conspiracy, Minella personally benefitted from Hamilton's misuse of the slate fund and union monies through his association and facilitation of Hamilton's criminal scheme in significant ways. And Minella, himself, ultimately improperly converted slate fund money to his own use by participating in writing the series of checks to himself from the slate fund account. However, as part of the plea agreement, Minella has agreed to pay \$37,000 in restitution for his part in depleting the slate fund account, so that the funds may be returned to their rightful owner, the Local 324 union.

5. Minella took Affirmative Steps to Assist Hamilton in Concealing His Extortion Through Structuring

When Hamilton lost the election, Minella continued his misguided devotion to Hamilton and engaged in further dereliction of his duty to the union by helping Hamilton conceal Hamilton's final act of extortion and, in the process, advancing yet another one of Hamilton's crimes. On that Saturday evening in August 2012 when Hamilton decided to raid the remaining funds in the slate fund account, Minella and Hart wrote the seventeen checks in amounts less than \$10,000 in order to avoid generating a Currency Transaction Report at the bank. PSR ¶ 11. Minella knew what he was doing was wrong because Hamilton told Minella (and Hart) to

write the checks in those amounts in order to avoid “red flags” at the bank. Minella further concealed Hamilton’s crime by not revealing to any of the other business agents who had contributed to the slate fund; nor the CFO responsible for handling the slate fund account, or anyone else, including law enforcement, that they had divvied up the funds in the slate fund account for their own personal gain. In this way, Minella helped Hamilton avoid not only law enforcement scrutiny of his criminal scheme, but also scrutiny by his fellow union brethren who he was elected to serve.

B. The Seriousness of Minella’s Crimes, Just Punishment, and Respect for the Law (18 U.S.C. § 3553(a)(2)(A))

Minella’s crime is particularly serious because he not only facilitated Hamilton’s misuse of slate funds and union funds, he did so in violation of his duty to Local 324 union members as one of their highest elected officers. Minella also personally benefitted significantly from Hamilton’s abuse of power at the expense of those who Minella was entrusted to serve. Knowing that Hamilton was using union funds to personally enrich himself, as a business agent of the union and an elected officer of the union, Minella breached the trust of Local 324 union members by advancing Hamilton’s extortionate scheme and further by personally enriching himself and concealing Hamilton’s crimes. Local 324 union members were entitled to loyalty from their officers, the type of loyalty that put the best

interest of the union members as a whole first. Minella's undeniable betrayal of his duty to the members of Local 324 in order to satisfy the illegal objectives of one individual, one who was even more entrusted with protecting and advancing the best interest of the union should be accounted for in Minella's sentence.

**C. Deterring the Criminal Conduct of Others
(18 U.S.C. § 3553(a)(2)(B))**

One of the victims most seriously affected by Hamilton's illegal actions in this case, Kenneth Dombrow, stated during Hamilton's sentencing, "with responsibility comes accountability," and "no one man controls." And nothing could be more true. Unions are formed to protect and further the rights and interests of its members, not the personal interests and objectives of one individual. Minella lost sight of this fundamental tenet of union membership and representation, and Local 324 suffered as a result. This Court should send a strong message to those entrusted to handle union business and protect and advance the best interest of the union who, rather than faithfully carrying out their responsibility to union members, elect instead to personally enrich themselves and or assist or advance the interest of anyone with that objective, through coercive measures or other illegal methods, will be held responsible for their crimes.

D. Protecting the Public from Further Crimes by Minella
(18 U.S.C. § 3553 (A)(2)(C))

Further crimes by Minella are unlikely. Minella has accepted responsibility for his crime; shown extreme remorse for his criminal conduct; and provided significant cooperation in this case. In addition, given this conviction, it is also unlikely that Minella will be put in a position of trust to commit additional crimes in the future.

III. SENTENCING GUIDELINE CALCULATIONS

A. Statutory Maximum Sentence

As set forth in Title 18, United States Code, Section 4, the maximum sentence that may be imposed on Minella is 3 years. The maximum fine is \$250,000.

B. Base Offense Level and Specific Offense Characteristics

1. Base Offense Level

Minella's adjusted offense level, including the sole specific offense characteristic based on the amount of loss in this case, was calculated at 14. The probation department agrees that the appropriate adjusted offense level in this case is 14. (PSIR, ¶¶ 19, 23). Because Minella has no prior criminal convictions, his criminal history category is I. The resultant guideline range calculated by the

parties is 10-16 months. The probation department also concurs with the parties' calculation of the sentencing guideline range in the plea agreement. (PSR, ¶ 47).

2. 2016 Amendment to U.S.S.G. § 2B1.1

In calculating Minella's sentencing guidelines, the parties relied on the 2015 Guidelines Manual. However, after Minella entered his guilty plea, the United States Sentencing Commission amended § 2B1.1 of the sentencing guidelines, which applies in this case and was used to calculate Minella's original sentencing guideline range. Under the 2015 Guidelines Manual there is a 14 point level increase to the offense level for an amount of loss more than \$250,000 but less than \$550,000, under § 2B1.1(b)(1)(G), the guideline section applicable to this case. However, in 2016, the United States Sentencing Commission reduced the point level increases under § 2B1.1 of the sentencing guidelines by two levels, thereby reducing § 2B1.1(b)(1)(G), the section that applies here, from a 14 level increase to a 12 level increase.

Pursuant to the policy statement in U.S.S.G. §1.B1.11, which provides that "the court shall use the Guidelines Manual in effect on the date that the defendant is sentenced," Minella is entitled to a two level reduction to his offense level because the 2016 Guidelines Manual is in effect and will govern on the date of Minella's sentencing. As a result, Minella's total offense level is reduced from an offense level of 14 to an offense level of 12. With a total offense level of 12 and

criminal history category of I, along with the two level reduction for acceptance of responsibility, the applicable sentencing guideline range is now 6-12 months. The parties agree that 6 to 12 months is the applicable guideline range in this case and request that the Court amend the presentence report to reflect this change.

IV. CONCLUSION

Minella committed serious criminal conduct over the course of a number of years by putting the sole interest of Hamilton before the best interest of the union members of Local 324 who Minella was entrusted to serve. This conduct ranged from Minella's participation in firing Kenneth Dombrow and the other efforts to blackball Dombrow and Minella's personal enjoyment in the weekly Lunch Program to his illegal taking and concealment of the ill-gotten funds from the slate fund following Hamilton's defeat in the election. Balanced against Minella's crimes and misconduct is his acceptance of responsibility, significant remorse and his cooperation in this case. Minella's sentence should reflect the serious crime he committed, while at the same time recognizing the very substantial efforts he has made to correct his wrongs. For those efforts, Minella should receive appropriate credit and due consideration of the Court. The government is confident that the Court will impose an appropriate sentence.

Respectfully submitted,

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Dated: April 18, 2018

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filings to the following:

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